

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**GILBERTO A. COLON,**  
**Plaintiff**

**v.**

**ROBERT J. KANNES, et al.,**  
**Defendants**

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**No. 1:11-cv-890**

**(Chief Judge Kane)**

**ORDER**

**THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:**

On May 12, 2011, Magistrate Judge Martin Carlson issued a Report and Recommendation (“R&R”) in the above-captioned case. (Doc. No. 6.) In the R&R, Judge Carlson granted Plaintiff’s motion for leave to proceed in forma pauperis but recommended that the Court dismiss Plaintiff’s complaint for failure to state a claim upon which relief can be granted without prejudice to allowing Plaintiff to attempt to correct the deficiencies noted in his original complaint. (Id. at 2.) In making that recommendation, Judge Carlson noted that Plaintiff “ha[d] not alleged any violations of specific rights guaranteed by the Constitution or laws of the United States” and that “even reading the complaint liberally, [the court is] unable even to speculate as to which of his federal and constitutional rights [Plaintiff] believes the parties named in the complaint may have violated.” (Id. at 7.)

Rather than filing an objection to the R&R, it appears that Plaintiff has filed documents which can be liberally construed as a motion for appointment of counsel (Doc. No. 7) and an amended complaint (Doc. No. 9). The Court will adopt the R&R dismissing the original complaint but will remand this case to Judge Carlson to determine whether Plaintiff has now met the pleading requirements in Plaintiff’s amended complaint (Doc. No. 9).

**ACCORDINGLY**, on this 9th day of June 2011, it is **HEREBY ORDERED THAT:**

1. Magistrate Judge Carlson's R&R (Doc. No. 6) is **ADOPTED** and Plaintiff's complaint (Doc. No. 2) is dismissed without prejudice for failure to state a claim.
2. The case is **REMANDED** to Judge Carlson to determine whether Plaintiff's amended complaint (Doc. No. 9) cures the defects cited in the R&R and whether Plaintiff's request for counsel (Doc. No. 7) should be granted.

/s/ Yvette Kane  
Yvette Kane, Chief Judge  
United States District Court  
Middle District of Pennsylvania